



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,190	04/08/2004	Robert George Dunster	14036.44US01	2309
23552	7590	03/06/2009		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER HWU, DAVIS D	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 03/06/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,190	Applicant(s) DUNSTER ET AL.	
	Examiner Davis Hwu	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,14-17 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,14-17 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicant's arguments of January 9, 2009 have been entered and fully considered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-6, 8, 9, 14-17, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell in view of Babich et al.

O'Connell discloses a fire extinguishing system including a source 2 of fire extinguishant fluid, a nozzle body 35 having a wall defining an interior cavity, and at least one extinguishant outlet 37 formed in the wall for discharging extinguishant fluid from the cavity into a fluid-filled volume (a room for example), which outlet is fixed in use. Babich et al. teach a spray device comprising a nozzle 23 having an outlet which is arranged such that a rotational movement of a spray material is induced via insert 25 to distribute the material homogeneously within a fluid-filled volume 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of O'Connell by providing a means to produce rotational movement of the extinguishant as has been taught by Babich et al. Regarding claim 5, such a modification would have required a mere change in the position of a device which is generally recognized as being within the level of ordinary skill in the art. Regarding claim 17, it would have been obvious to one having ordinary skill in the art that the device would normally be placed in a room and as such the combination of the device

and the room would read on the claim language of claim 17. The device will carry out the method of claim 24.

Response to Arguments

4. Applicant's arguments filed January 9, 2009 have been fully considered but they are not persuasive. In column 4, line 56 of Babich et al., states that the helical insert 25 causes the material to rotate and does not state that the insert 25 itself rotates. However, regardless of whether the insert 25 rotates, it provides the teaching of a device to provide a rotational movement of the fluid which would include the extinguishant within the fluid-filled volume because the rotation of the fluid will carry into the fluid-filled volume. The nozzle and outlets of O'Connell are fixed in usage and therefore meets the requirement of the "outlet is fixed in use." Babich et al. teaches the inclusion of swirl insert in a spray nozzle 23 and it would therefore have been obvious to one having ordinary skill in the art to have modified the device of O'Connell to have provided a swirl insert in the outlets to impart rotational movement to the liquid which would carry into a fluid-filled chamber to extinguish a fire through the teaching of Babich et al. Also, mist is a fluid and it can be imparted with rotational movement. There are no arrangements in the prior art that would reduce the range of the water mass.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3752

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is (571)272-4904. The examiner can normally be reached on Mon-Friday 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

/Davis Hwu/
Primary Examiner, Art Unit 3752